

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

STEFAN DAVIS,)
Appellant)
)
v.) CIVIL ACTION NO. 05-30028-MAP
)
PHOEBE MORSE, ET AL,)
United States Trustees,)
Appellees)

MEMORANDUM REGARDING BANKRUPTCY APPEAL

June 6, 2005

PONSOR, U.S.D.J.

Counsel for the appellant and appellees appeared before this court on June 2, 2005 for argument on related appeals. Counsel for the appellant had previously objected to a hearing on this appeal, on the ground that he was given inadequate notice. However, after a conference in open court, counsel for the appellant agreed to move forward on this appeal following the related appeals.

The background of the case is as follows. Counsel for the appellant/debtor, Francis Lafayette, was ordered on June 10, 2004 to file fee applications within 120 days of the order. On October 7, 2004 Attorney Lafayette filed a motion for an extension of time to file the applications. This motion was allowed by Bankruptcy Judge Henry Boroff, who extended the deadline for filing the applications to December 8, 2004, noting that "no further extensions would

be granted absent extraordinary and unanticipated circumstances."

Despite this ruling, on December 8, 2004 Attorney Lafayette filed a second motion to extend time, citing illness and dental procedures which, he argued, had prevented him from drafting and filing the fee petitions. On December 13, 2004 Judge Boroff denied the second motion for extension, noting that during the two months between October 7 and December 7, 2004 Attorney Lafayette had filed some 490 pleadings, thirty-three of which were new bankruptcy cases. Attorney Lafayette has filed this appeal of Judge Boroff's December 13, 2004 ruling, charging that it constituted an abuse of discretion.

For the reasons set forth in greater detail orally in open court, Judge Boroff's ruling is hereby AFFIRMED and this appeal is ordered DISMISSED. Judge Boroff's prior experience with Attorney Lafayette, coupled with the strong evidence of vigorous professional activity during the period of extension, amply support Judge Boroff's ruling. By no stretch could his denial of the second motion to extend be considered an abuse of discretion.

This case can now be closed.

It is So Ordered.

/s/ Michael A. Ponsor
MICHAEL A. PONSOR

U. S. District Judge